

~~CA~~ CA Oad Bridge 14-May-1981
OBY v. O.B.

D's certification in support of
motion to quash and extend time
to answer interrogatories.

pgs = 5

CA002317V

BRENER, WALLACK & HILL

15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540
(609) 924-0808
ATTORNEYS FOR Plaintiff

Plaintiff

O & Y OLD BRIDGE DEVELOPMENT CORP.

vs.

Defendant

THE TOWNSHIP OF OLD BRIDGE, et als.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

Docket No. L-32516-80

CIVIL ACTION

CERTIFICATION

STATE OF NEW JERSEY)
) ss:
COUNTY OF MERCER)

HENRY A. HILL, of full age, hereby certifies as follows:

1. I am a partner in the firm of Brener, Wallack & Hill and represent Plaintiff O & Y Old Bridge Development Corp. with reference to the within litigation.

2. On March 19, 1981 Plaintiff's Interrogatories were served upon Defendant Old Bridge Township Municipal Utilities Authority.

3. Since service of the Interrogatories on March 19, 1981, the attorneys for Defendant Old Bridge Township Municipal Utilities Authority have not sought to discuss said Interrogatories with any representative of the Plaintiff and additionally have not requested an extension of time to answer said Interrogatories.

4. Defendant Old Bridge Township Municipal Utilities Authority answers to Plaintiff's Interrogatories will be due on or before May 18, 1981.

5. On May 7, 1981, I received notice of Defendant Old Bridge Township Municipal Utilities Authority's Motion to extend time to answer Interrogatories and to quash said Interrogatories; the Certification annexed to the Notice of Motion indicates only that the Municipal Utilities Authority's attorney believes the following:

- (a) that some of the questions would require records going back "many years", and will take months to accumulate answers thereto;
- (b) that it is his position that the Interrogatories are intended to harass and intimidate this Defendant;
- (c) that he believes that the cost to taxpayers of preparing the answers is unconscionable, unwarranted and an exercise in harassment.

6. This Certification does not comply with the requirements of Rule 1:6-6 that if a motion is based upon facts not appearing of record that the Court may hear it on Affidavits made on personal knowledge, setting forth only facts to which the Affiant is competent to testify because:

- (a) Certification does not set forth which questions require records going back many years and will take months to accumulate;
- (b) the comment that the Interrogatories are intended to harass and intimidate this Defendant is not made on personal knowledge or based upon facts upon which the Affiant is competent to testify;
- (c) the Certification fails to set forth the facts upon which the conclusion that the cost of preparing answers is unconscionable are based.

7. Defendant's Notice of Motion and annexed Certification fail to provide Plaintiff of any notice of Defendant's specific objections to Plaintiff's set of Interrogatories.

8. The within Motion to Quash Interrogatories fails to comply with the requirements of Rule 4:17-5 (a) which requires a party upon whom Interrogatories are served to object to questions propounded by either answering the question by stating "the question is improper" or moving within 20 days after service of Interrogatories for a hearing to strike questions; the within motion is more than 30 days out of time with the requirement of Rule 4:17-5 (a).

9. Since Plaintiff has no notice of the specific Interrogatories Defendant objects to, I will only generally respond to the Notice of Motion by indicating that I am an experienced land use attorney, having represented numerous municipalities including Princeton Township, Princeton Borough, Hightstown Borough, Bridgewater Township, West Windsor Township, Montgomery Township, etc. and have litigated many complex land use cases of Allan-Dean

corp. v. the Township of Bedminster, Docket Number L-36896-70 P.W. and L-28061-71 P.W., Allen-Dean Corp. v. the Township of Bernards, Docket Number L-25645-P.W., and Pantlin and Chananie Development Company v. the Borough of North Plainfield, Docket Number L-7234-75 P.W.; in my experience, exclusionary land use litigation is properly considered to be complex litigation requiring very complete and extensive pre-trial discovery.

10. The Interrogatories propounded on this Defendant were carefully drafted after extensive research into the Municipal Utilities Authority Act and conferences with our engineering consultants and auditors experienced in Municipal Authority practices to determine what information they needed to demonstrate why the existing fee schedule was excessive. The Interrogatory questions propounded on the Municipal Utilities Authority fall into the following general categories.

INDEX OF OLD BRIDGE TOWNSHIP

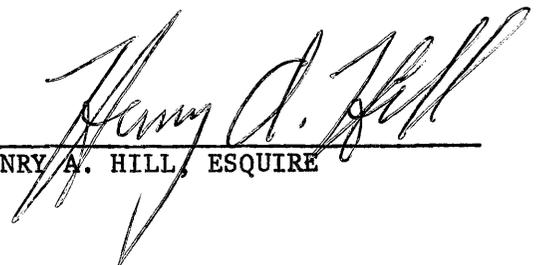
MUNICIPAL UTILITY AUTHORITY INTERROGATORIES

<u>Topic</u>	<u>Numbers</u>
Basic questions including factual support for Counterclaim, names of experts, etc.	1-18
Creation of Authority, members	19-24
Facilities and financing thereof	25-27
Water service charges	28,31,31
Connection/tapping fees	29
Operation and maintenance expenses	30
Funding of Old Bridge Council	33-36
Bonding	37-38
Eminent domain	39-40
Section 20-7.7213 of Land Development Ordinance	41-42

Number customers, flow data, system capacity, interconnection	43-48
Future construction of facilities	49-51
Fees	52-59
System map	60-61
Connection, service agreements	62-65
Meetings, resolutions concerning increased fees	66-68
Diversion, use, capacity data	69-85
Plaintiff's right to apply for diversion permits	86-88
Plaintiff's meetings with Authority	89-91
Conspiracy questions	92-111

These Interrogatories are extensive and numerous because we have carefully analyzed the proofs which will be required to try this complex action. All questions are designed to elicit information which will be relevant at the trial or which may lead to relevant information.

11. It is Plaintiff's position that all of the Interrogatories to the Old Bridge Township Municipal Utilities Authority seek information within the scope of discovery as provided by Rule 4:10-2 and are not burdensome or oppressing and will not cause undue expense or embarrassment on the part of Defendant.


HENRY A. HILL, ESQUIRE

Date: May 14, 1981